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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/967,009
Filing Date: September 28, 2001
Appellants: RUDRAPATNA ET AL.

Mark W. Sincell
For Appellants

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04 January 2007 appealing from the Office action mailed 09 August 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

This appeal involves claims 1, 3, 4 and 7-9.

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-21 are allowed.

(4) Status of Amendments After Final

The appellants' statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 19 December 2006 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellants' statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,771,705

KENNEY ET AL.

3-2004

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claims 1, 3, 4 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,771,705 to Kenney *et al* (hereafter Kenney).

Kenney discloses a wireless data transmission arrangement including transmitter circuitry (FIG. 2) comprising a pair of turbo code component encoders (Encoder 1, Encoder 2) providing "a separate error control code encoder for each stream" for "forming separately at least two error control coded streams" (Parity data subset 1, Parity data subset 4) from a "block of information" (Systematic Data). Separate antennas (113, 114) are used by Kenney's transmitter to transmit the respective "error control coded streams." Kenney's data transmission arrangement further uses a hybrid ARQ protocol with incremental redundancy (col. 7, lines 26+), and therefor transmits this data in response to a "confirmation message" of the ARQ protocol.

Regarding claim 9, the system disclosed by Kenney can be considered a “one-to-many” communication system” as a single base station typically communicates with several mobile units.

(10) Response to Argument

Appellant argues that since the streams transmitted by Kenney’s antennae (113, 114) both include data encoded by the two separate encoders (201, 204), it is not possible for Kenney to teach or suggest forming two error control coded streams using a separate encoder for each stream and it is not possible for Kenney to teach or suggest a “first error control encoded stream ... is independently transmitted by a first antenna” and a “second error control stream ... is independently transmitted by a second antenna.” The examiner respectfully disagrees. Appellant is apparently identifying as the first and second streams the entirety of data respectively generated by the separate first and second encoders (201, 204) whereas the examiner has identified as the first stream only the portion (parity subset data 1) of first encoder parity which reaches the first antenna and has identified as the second stream only the portion (parity subset data 4) of second encoder parity that reach the second antenna. Additional parity subsets 2 and 3 carry parity bits not carried in parity subsets 1 and 4, respectively, and vice-versa, as parity subsets 1 and 2 are punctured in a complementary manner (i.e. each parity subset is a unique subset of parity bits from the encoder output), and so too are parity subsets 3 and 4. As the first and second parity streams identified by the examiner above (parity subsets 1 and 4) are unique due to

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complementary puncturings, accordingly it can be said that each antenna shown by Kenney transmits its respective stream independently of the other antenna.

(11) Related Proceedings Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Stephen M. Baker/

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